



APR 26 2002

#11

Robert M. Bedgood
Pillsbury Winthrop LLP
50 Fremont St.
San Francisco, CA 94120

| | | |
|------------------------------------|---|----------------|
| In re Application of | : | |
| BOURDON, Mario A., et al. | : | |
| Application No.: 09/701,162 | : | DECISION ON |
| PCT No.: PCT/US98/25791 | : | |
| Int. Filing Date: 04 December 1998 | : | PETITION UNDER |
| Priority Date: 05 December 1997 | : | |
| Attorney Docket No.: LJIEM110-1 | : | 37 CFR 1.47(a) |
| For: INHIBITION OF TUMOR GROWTH BY | : | |
| MACROPHAGE INTERVENTION | : | |

This is a decision on applicants' "Renewed Petition Under 37 CFR §1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 03 April 2002.

BACKGROUND

On 04 December 1998, applicants filed international application PCT/US98/25791, which claimed a priority date of 05 December 1997. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 June 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 04 June 1999, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 June 2000.

On 22 November 2000, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and petition to revive.

On 08 February 2001, USPTO mailed a petition decision granting applicants' petition to revive.

On 05 April 2001, USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for reply.

On 05 September 2001, applicants submitted the instant petition under 37 CFR 1.47, which was accompanied by, *inter alia*, a petition for a three-month extension of time; the fee for a three-month extension of time; a declaration executed by four of the five inventors; a statement by Mario Bourdon; a certified mail receipt and a copy of letter to Dr. Per Borgström from Mario Bourdon.

On 05 February 2002, the office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing the petition without prejudice.

On 02 April 2002, applicants submitted "Renewed Petition Under 37 CFR §1.47(a)."

DISCUSSION

A petition under ~~37~~ CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Item (1) was previously met.

Items (2) and (3) have now been met. Mr. Bedgood sent a letter by certified mail to Dr. Borgström, including the full specification and declaration. Applicants have supplied a copy of the signed return receipt. Further, applicants state the last known address of Dr. Borgström as 2325 Camino Del Collado; La Jolla, CA 92037.

Item (4) has not been met. The declaration is not complete. Previously, the Office was supplied one page 1, one page 4, and two pages numbered 3. Page 2 has been entirely omitted. While it is acceptable for inventors to execute different copies of the declaration, applicants must supply the full copy of the declaration executed by each inventor. Applicants may not piece together pages from different declarations to create a composite declaration. Applicants must supply the complete declarations as executed by the inventors.

CONCLUSION

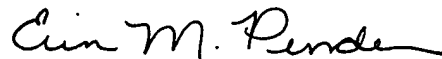
For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.



Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration



Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459